

§ 1802.3

by telephone or telegram and (3) instances where individual members, authorized to conduct business on behalf of the Board or to take action on behalf of the Board, meet with members of the public or staff. Conference telephone calls that involve the requisite number of members, and otherwise come within the definition, are included.

Member means a member of the Board of Trustees.

Staff includes the employees of the Harry S. Truman Scholarship Foundation, other than the members of the Board.

§ 1802.3 Open meetings.

(a) Members shall not jointly conduct or dispose of business of the Board of Trustees other than in accordance with these procedures. Every portion of every meeting of the Board of Trustees or any committees of the Board shall be open to public observation subject to the exceptions provided in § 1802.4.

(b) Open meetings will be attended by members of the Board, certain staff, and any other individual or group desiring to observe the meeting. The public will be invited to observe and listen to the meeting but not to participate. The use of cameras and disruptive recording devices will not be permitted.

§ 1802.4 Grounds on which meetings may be closed, or information may be withheld.

Except in a case where the Board or a committee finds that the public interest requires otherwise, the open meeting requirement as set forth in the second sentence of § 1802.3(a) shall not apply to any portion of a Board or committee meeting, and the informational disclosure requirements of §§ 1802.5 and 1802.6 shall not apply to any information pertaining to such meeting otherwise required by this part to be disclosed to the public, where the Board or committee, as applicable, properly determines that such portion or portions of its meetings or the disclosure of such information is likely to:

(a) Disclose matters that are: (1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (2) in fact

45 CFR Ch. XVIII (10–1–99 Edition)

properly classified pursuant to such Executive Order;

(b) Relate solely to the internal personnel rules and practices of the Harry S. Truman Scholarship Foundation;

(c) Disclose matters specifically exempted from disclosure by statute (other than section 552, Title 5, United States Code), provided that such statute: (1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial and financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would: (1) Interfere with enforcement proceedings,

(2) Deprive a person of a right to a fair trial or an impartial adjudication,

(3) Constitute an unwarranted invasion of personal privacy,

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(5) Disclose investigative techniques and procedures, or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be

likely to significantly frustrate implementation of a proposed agency action, except that this paragraph shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the issuance of a subpoena, or Foundation participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Foundation of a particular case of formal adjudication pursuant to the procedures in section 554 of title 5, United States Code, or otherwise involving a determination on the record after opportunity for a hearing.

§ 1802.5 Procedure for announcing meetings.

(a) Except to the extent that such information is exempt from disclosure under the provisions of § 1802.4, in the case of each Board or committee meeting, the Executive Secretary, acting at the direction of the Board, shall publish in the FEDERAL REGISTER, at least seven days before the meeting, the following information:

- (1) Time of the meeting;
- (2) Place of the meeting;
- (3) Subject matter of the meeting;
- (4) Whether the meeting or parts thereof are to be open or closed to the public; and
- (5) The name and phone number of the person designated by the Board or committee to respond to requests for information about the meeting.

(b) The seven-day period for the public announcement required by paragraph (a) of this section may be reduced if a majority of the members of the Board or committee, as applicable, determine by a recorded vote that Board or committee business requires that such expedited meeting be called at an earlier date. The Board or committee shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(c) The time or place of a meeting may be changed following the public announcement required by paragraph (a) only if the Executive Secretary, acting at the direction of the Board, publicly announces such change at the earliest practicable time. Such change need not be voted on by the members.

(d) The subject matter of a meeting, or the determination of the Board or committee, as applicable, to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by paragraph (a) of this section only if: (1) A majority of the entire voting membership of the Board or a majority of the entire voting membership of a committee, determines by a recorded vote that Board or committee business so requires and that no earlier announcement of the change was possible, and

(2) The Board or committee publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(e) The "earliest practicable time" as used in this section, means as soon as possible, which should in few, if any, instances be no later than commencement of the meeting or portion in question.

(f) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the person designated by the Board or committee to respond to requests for information about the meeting, shall be submitted for publication in the FEDERAL REGISTER.

§ 1802.6 Procedure for closing meetings.

(a) Action to close a meeting or a portion thereof, pursuant to the exemptions set forth in § 1802.4, shall be taken only when a majority of the entire voting membership of the Board or a majority of the entire voting membership of a committee, as applicable, vote to take such action. Any such action shall include a specific finding by the Board that an open meeting is not required by the public interest.